



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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Audit Referral 00-04

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JAMES A. PEHRKON
STAFF DIRECTOR *[Signature]*

FROM: ROBERT J. COSTA *[Signature]*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: MID-AMERICA CONSERVATIVE POLITICAL ACTION COMMITTEE-
REFERRAL MATTERS

On March 28, 2000 the Commission approved the Final Audit Report on the Mid-America Conservative Political Action Committee (MacPac). The report was released to the public on April 5, 2000. MacPac failed to respond to the interim audit report, as a result, all of the findings from the final audit report are being referred to your office.

The treasurer, Mr. Leroy Corey, was killed in an automobile accident in November, 1999. The only person knowledgeable about MacPac's activities was Mr. Corey. The current contact person at MacPac is Mr. Les Borsay who has made it clear that MacPac is substantially without resources and will be terminated as soon as possible. Although some of the issues in the audit report are significant, under the circumstances, it is the recommendation of the Audit Division that no further action be taken on this referral.

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Nicole Clay or Russ Bruner at 694-1200.

Attachment:
Findings II.A., B., C., FAR Pgs. 5-11

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. FAILURE TO REPORT RECEIPTS AND DISBURSEMENTS, FAILURE TO MAINTAIN RECORDS, AND MISSTATEMENT OF FINANCIAL ACTIVITY

Section 432(c) of Title 2 of the United States Code states that the Treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee; the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person; the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution; the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made.

Section 102.9(b)(2) and (d) of Title 11 of the Code of Federal Regulations states in part, in addition to the account to be kept under 11 Code of Federal Regulations 102.9(b)(1), a receipt or invoice from the payee or a canceled check to the payee shall be obtained and kept for each disbursement in excess of \$200 by or on behalf of, the committee.

In performing recordkeeping duties, the treasurer or his or her authorized agent shall use his or her best efforts to obtain, maintain, and submit the required information and shall keep a complete record of such efforts. If there is a showing that best efforts have been made, any records of a committee shall be deemed to be in compliance with this act. With regard to the requirements of 11 CFR 102.9(b)(2) concerning receipts, invoices and canceled checks, the treasurer will not be deemed to have exercised best efforts to obtain, maintain and submit the records unless he or she has made at least one written effort per transaction to obtain a duplicate copy of the invoice, receipt, or canceled check.

Section 100.12 of Title 11 of the Code of Federal Regulation defines *identification* in the case of an individual, his or her full name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the person's full name and address.

Section 104.14(b)(1) of Title 11 of the Code of Federal Regulations states in part, each political committee required to file any report or statement shall maintain all

records relevant to such reports or statements as follows: maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills, and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness.

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and all disbursements for the reporting period and calendar year.

As previously discussed, on December 1, 1998, the Audit staff met and received from Mr. Corey a receipts log sheet which listed contribution totals for MacPac, and other organizations he controlled. No contributor identification was documented on these logs. Examples of solicitation devices and response cards were also provided. At a later date, MacPac forwarded a computerized file of contributions, but the Audit staff was unable to associate it with the disclosed contributions. The information on this file did not cover the entire election cycle.

As for disbursement records, Mr. Corey provided hand-written disbursement logs which appear to mirror schedules B from MacPac's disclosure reports. The only reliable disbursement information available to the Audit staff are copies of disbursement checks obtained from Magna Bank via subpoena. The Audit staff has received check copies for approximately 95% of MacPac's expenditures.

Although Mr. Corey repeatedly stated that he was willing to obtain and/or provide both receipt and disbursement source documentation, he did not.

During the December 1, 1998 entrance conference, Mr. Corey stated MacPac only had one bank account, and none of his other companies' finances passed through that account. Incomplete bank statements were forwarded to the Audit staff on January 13, 1999. Contrary to his previous statements, in the correspondence accompanying the bank statements, Mr. Corey stated that it appears that the MacPac account was used not only for MacPac but "for something else too". Mr. Corey explained that records would have been maintained to support the additional activity passing through the account, and that he would look for those records. However he noted that the records may have been destroyed with the water problem but, he would do his best to compile them. No additional records were provided.

As noted above, in addition to records provided by Mr. Corey and MacPac's bank, subpoenas were issued to other organizations that MacPac had dealings with. Mr. Corey also owned or was an officer of these organizations. They are as follows:

- American Conservative Corporation, a not-for-profit corporation, which publishes a newspaper called the American Conservative. Mr. Corey was president of the American Conservative Corporation. MacPac paid American Conservative Corporation for printing, newspaper advertisements, and mailing costs.
- American Communications Corporation is a for profit corporation. Mr. Corey was the president. MacPac paid American Communications Corporation for printing, equipment leases, office management and labor services.
- Freedom Center Foundation, Inc., is another not-for-profit organization, established by Mr. Corey. Freedom Center Foundation paid for contract labor and equipment leases.

The subpoenas to these organizations produced very little useful information¹. The information presented below comes primarily from records provided by Magna Bank.

RECEIPTS

In an attempt to determine the source of MacPac's revenues and the correct reportable receipt figure, copies of deposits to MacPac's account were requested from the Union Planters bank. However, the bank informed the staff that due to high volume and a small average transaction amount, the records would require a substantial period of time to produce and the cost would be considerable. Given that information the subpoena was limited to two months and part of a third that had already been copied by the bank. Receipts for those periods totaled \$122,431, which represented 19% of the total receipts for the two year cycle. The bank was able to produce records for \$110,753, which represents 90% of the dollar amount deposited during the periods covered. Approximately 97% of the dollar value of the documented receipts were checks made payable to MacPac. The remaining 3%, totaling \$2,933, were written to, the American Conservative, Leroy and Sue Corey, Sue Corey, Bob Dole, Senator Dole, Students for America and The Corey Family. Based on this review it is concluded that all of the funds deposited into MacPac's accounts should have been included in MacPac's reported activity. MacPac reported total receipts of \$467,914 for 1995 and 1996. After reviewing MacPac's bank records it was determined that the correct figure was \$655,710², a difference of \$187,795.

¹ In addition Mr. Corey was president of University Properties, L.C. One payment by MacPac to University Properties, L.C. has been documented during the audit period.

² There was minimal activity in the other three MacPac accounts, therefore the total receipts, disbursements, and cash figures were adjusted for the additional activity.

DISBURSEMENTS

The Audit staff reviewed the disbursements reported and the copies of the canceled checks provided by MacPac's bank. Legible copies of checks were provided for all but \$29,832 of the debits on the account. In an attempt to determine which disbursements had been reported and which had not, a summary by major vendor was prepared based upon available records, the largest differences are presented below.

Vendor	Report Total	Bank Total	Difference Report Under/(Over) the Bank
Leroy Corey	\$32,200	\$217,538	\$185,338
Freedom Center Foundation	13,462	85,448	72,026
SFA ³	0	49,245	49,245
Rental Account ⁴	0	47,735	47,735
Sue Corey	0	40,021	40,021
ACIO Pac ⁵	0	37,646	37,646
Cash	0	22,325	22,325
Corey For Senate	2,225	11,593	9,368
Postmaster ⁶	152,753	0	(152,753)
ACC Corporation ⁷	80,005	0	(80,005)

After reviewing MacPac's accounts, it was determined that all of the disbursements drawn on the accounts should have been included on MacPac's disclosure reports. The reported total was \$459,152, the correct total is \$650,784, a difference of \$191,632.

³ Students for America, was listed as an affiliated committee on MacPac's the 1985 Statement of Organization. It is not registered with the FEC or the Iowa Ethics and Campaign Disclosure Board. According to Mr. Corey, this organization was no longer in existence during the audit period.

⁴ The nature of this account is not clear. It could be related to University Properties, L.C., but no documentation is available.

⁵ AC-Impartial Observer PAC is not registered with the FEC or the Iowa Ethics and Campaign Disclosure Board.

⁶ MacPac reported payments to the post office, as independent expenditures against Clinton/Gore and Harkin for Senate, however there were no payments made to this vendor, during the audit period.

⁷ Per Mr. Corey, the American Communications Corporation name was changed to the American Conservative Corporation because the acronym was confusing to the MacPac personnel. However the Audit staff does not have any documentation to support this statement.

In addition to the receipt and disbursement differences discussed above, based on the available records, MacPac's January 1, 1995, reported cash on hand of \$12,464, was overstated by \$14,480. The correct balance was \$-2,016. Similarly, December 31, 1996 reported cash on hand was \$21,226. The correct reportable amount was \$2,910 an overstatement of \$18,317.

In the interim audit report the Audit staff recommended that MacPac:

- Provide an explanation for the reporting discrepancies discussed above including the variance in the reported amounts and in the payees on the disclosure reports versus the checks drawn on the MacPac account;
- provide evidence that it has materially complied with the Act's recordkeeping requirements, or has exercised best efforts to obtain, maintain and submit the required records;
- provide a description of procedures that will be put into place in order to prevent a recurrence of these problems; and,
- file comprehensive amended reports for 1995 and 1996, which include corrected Summary & Detailed Summary pages, as well as Schedules A and B (by reporting period).

B. EXCESSIVE CONTRIBUTIONS TO AUTHORIZED COMMITTEES

Sections 441a(a)(2)(A) and (4) of Title 2 of the United States Code state in part, that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. Further, it states that the term "multicandidate political committee" means a political committee which has been registered under section 433 of this title for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal Office.

The review of disbursements records indicated that MacPac made contributions to only two other committees. A \$1,600 in-kind contribution for mailing expenses to People for Lightfoot, Inc., which was not reported, and 22 contributions totaling \$11,593 to Corey For Senate, an authorized committee for MacPac Treasurer Leroy Corey's 1996 bid for the U.S. Senate. Mr. Corey eventually dropped out of the race and did not run in the primary election⁸.

⁸ Leroy Corey failed to file Statements of Organization and Candidacy for the 1996 Iowa Senatorial race. Corey for Senate raised \$331,583 during 1995 and 1996.

Of the 22 checks, 17 totaling \$8,875 were written in 1995 for the 1996 Primary Election. The payee on these checks was either "Senate Exploratory Committee" or "Senate Committee". Nine of these checks were endorsed with "Corey for Senate", three checks were endorsed with a Senate Exploratory Committee endorsement and one check was endorsed with "University Property". The Audit staff was unable to determine the endorsement on the remaining four checks. Additionally, ten checks had a memo entry designating the money as a contribution, and the remaining seven checks did not contain a memo entry. All checks written in 1995 appear to have been deposited into the same account.

Corey for Senate Exploratory Committee reported three contributions totaling \$2,225, from MacPac on its Mid Year 95 Report, none of the other contributions received were reported.

The remaining five checks totaling \$2,718 were written during December of 1996, endorsed with "Corey Senate" and apparently deposited in a different account. Three of these checks had a memo entry designating the money as both a contribution and an expense reimbursement. The remaining two checks did not contain memo entries.

MacPac contributed \$6,593 in excess of the \$5,000 limitation to Corey for Senate, of that amount \$3,875 was contributed in 1995 and the remaining \$2,718 was contributed in December 1996, six months after the Iowa Senatorial Primary.

In the interim audit report the Audit staff recommended that MacPac provide evidence demonstrating that the contributions in question were not excessive. Absent such evidence, the Audit staff recommended that MacPac obtain a refund from Corey for Senate in the amount of \$6,593 and provide evidence of the refund (a copy of the front and back of the negotiated refund check) for our review.

C. EXCESSIVE CASH DISBURSEMENTS

Section 432(h)(1) of Title 2 of the United States Code states in part, that each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. No disbursements may be made (other than petty cash disbursements) by such committee except by check drawn on such accounts.

Section 102.11 of Title 11 Code of Federal Regulations states in part, if a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate, the journal shall include the name of that

candidate and the office (including State and Congressional district) sought by such candidate.

A review of all check copies supplied by Magna Bank determined that Mr. Corey wrote 57 checks totaling \$22,325 to cash. Fifty-six of these checks were issued in amounts in excess of \$100. According to the Mr. Corey, MacPac did not maintain a petty cash fund. Documentation was not available to determine the purpose for which these funds were used; and these expenditures were not disclosed on MacPac's FEC reports. Therefore, it appears that MacPac has made excess cash disbursements totaling \$16,625 (\$22,225 - \$5,600).

MacPac was audited for the 1981 and 1982 election cycle and during the audit it was discovered that Mr. Corey, had written checks to cash to pay postal expenses totaling \$42,309. At that time, Mr. Corey told the Audit staff that he intended to create a petty cash fund to provide for incidental disbursements. Although this was mentioned in the audit report, no other action was taken on it at that time.

In the interim audit report the Audit staff recommended that MacPac provide an explanation for the continuing practice of making excessive cash expenditures and provide evidence that proper petty cash procedures have been implemented. The Audit staff further recommended that documentation be provided for these disbursements and amended Schedules B (by reporting period) should be filed properly disclosing these payments.